

### **REMARKS**

This is in response to the Office Action dated April 26, 2004, and the Interview held at the USPTO on July 15, 2004. Applicant would first like to thank the Examiner for the courtesy extended during the personal interview.

During the interview, it was agreed that the art rejection in the final rejection was incorrect and would be withdrawn. See the Interview Summary dated July 15, 2004.

#### **Claim 1**

Claim 1 requires "the insulating film having contact holes . . . . sense electrodes formed on the insulating film and connected to the switching elements via the contact holes; and a protective film formed on the insulating film so as to cover the sense electrodes, wherein an entire upper surface of the insulating film is flat except for areas proximate the contact holes." The cited art fails to disclose or suggest these aspects of claim 1.

Suga's layer 102 has no contact holes defined therein. As can be seen on the Interview Summary Form, the Examiner agreed that the current rejection of claim 1 was incorrect and would be withdrawn for at least this reason. The insulating layer 102 being relied upon in Figure 6 of Suga does not have contact holes defined therein. The only insulating layer including contact holes defined therein in Suga is layer 129 in Figure 8a. However, layer 129 in Figure 8a of Suga clearly does not have a flat upper surface at areas other than proximate contact holes. Thus, the Examiner has agreed to withdraw the final rejection.

Furthermore, Suga nowhere states or suggests that the top surface of film 102 (or 129) is flat. To the contrary, the top surface of Suga's film 102 will be non-flat because of the array of protruding electrodes 103 located thereunder. Furthermore, it is well established that drawings of a patent such as Suga may not be relied on to show particular sizes or dimensions if the specification of the patent is silent on the issue. *Hockerson-Halberstadt, Inc. v. Avia Group Int'l, Inc.*, 222 F.3d 951, 956, 55 USPQ2d 1487, 1491 (Fed. Cir. 2000), *citing, In re Wright*, 569 F.2d 1124, 1127, 193 USPQ 332, 335 (CCPA 1977). See also the very recent *Nystrom v. Trex* case provided to the Examiner during the interview. Thus, Suga cannot be used to show a "flat" upper surface of layer 102 (it is noted that the upper surface of layer 129 in Fig. 8A of Suga also is not flat). The cited art thus fails to disclose or suggest the invention of claim 1 in this additional respect.

#### Other Claims

Claim 5 requires that the "insulating film has photosensitivity." This means that the insulating film can be etched using radiation (and then optionally developing or the like). In contrast, the cited art fails to disclose or suggest this aspect of claim 5. Pires, cited in the Office Action, uses a luminous substance, but does not disclose or suggest photo-etching (or photo-definability) as required by claim 5.

Claim 26 requires that "the upper surface of the insulating film is characterized by differences in level no greater than 0.5  $\mu$ m." E.g., see the instant specification at page 4, line 10. Suga clearly fails to disclose or suggest this aspect of claim 26.

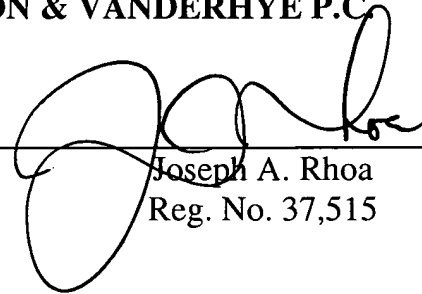
Conclusion

For at least the foregoing reasons, it is respectfully requested that all rejections be withdrawn. All claims are in condition for allowance. If any minor matter remains to be resolved, the Examiner is invited to telephone the undersigned with regard to the same.

Respectfully submitted,

**NIXON & VANDERHYTE P.C.**

By: \_\_\_\_\_

A handwritten signature in black ink, appearing to read 'Joseph A. Rhoa', is written over a horizontal line. The signature is stylized with large loops and a long horizontal stroke at the end.

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